



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re reissue patent application of:
Wing Leung.

Serial No. 09/873,845

Group Art Unit: 2875

Filed: 06/04/2001

Examiner: Mark Tsidulko

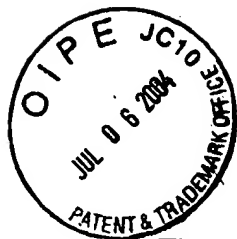
For: Decorative Globes

Mail Stop Reply Brief - Patents
Commissioner For Patents
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Alexandria, VA 22313-1450

ATTENTION: Board of Patent Appeals and Interferences

Honorable Sir:

REPLY BRIEF



REPLY BRIEF

The point headings in this Reply Brief correspond to the point headings in Appellant's previously filed Appeal Brief.

VII ARGUMENTS - REJECTIONS UNDER 35 U.S.C. §103(a) (37 C.F.R. §1.192 (c)(8)(iv))

B. THE EXAMINER HAS FAILED TO ESTABLISH A *PRIMA FACIE* CASE OF OBVIOUSNESS AGAINST CLAIM 1.

In section VII(B) of the Appeal Brief, Appellant discussed the fact that the Examiner's cited reference of Farquhar does not teach or suggest all of the features of Appellant's pending claims required to establish a *prima facie* obviousness rejection. In reply, the Examiner asserts (Examiner's Answer, pages 5-6, section 11) that the claimed features of an image projected onto an inner surface of an outer cover and is visible from outside the outer cover are found in Farquhar. As support for this assertion the Examiner states: "[c]olumn 6, lines 22-29 of Farquhar recites "The planet apparatus may also be used to project shadows of the planets when the bulb 60 is illuminated. The student thereby sees the position of planets relative to the projected stars, constellations, etc." This suggests to the Examiner that an image is projected onto an inner surface of the outer cover otherwise the planets would not be visible". Examiner's Answer pages 5-6, section A.

The Examiner's statement in the Examiner's Answer at pages 5-6, section A, clearly indicates a misunderstanding of the Farquhar reference. In particular, the Examiner appears to have misunderstood Farquhar's disclosure at column 6, lines 22-29 since the projection of the shadow, stars, constellations, etc. are to appear on a remote site, "preferably, a dome like viewing surface mounted above (emphasis added) the projection unit. Farquhar, column 1, lines 37-38. This remote site is clearly not an inner surface of an outer cover, wherein an image is visible from outside the outer cover.

The Examiner also supports the assertion that all the claimed elements are found in Farquhar in the Examiner's Answer at page 6, section B wherein the Examiner states that "[a]s for meeting the functional phrase "image is projected onto an inner surface of an outer cover and is visible from outside the outer", Farquhar shows by reciting that "Light 60...projects the outline of the Earth's continents and stars on the viewing surface" in col. 5, lines 12-17.

The Examiner's statement in the Examiner's Answer at page 6, section B, clearly indicates a misunderstanding of the Farquhar reference. In particular, as pointed out in Appellant's Appeal Brief, "Farquhar teaches projecting an image created from passing light through an inner globe 100 and an outer globe 20. Farquhar, column 5, lines 13-15. The Farquhar image projected from these two globes is displayed on a viewing surface 8. The Farquhar viewing surface 8 is positioned such that when a "celestial scene is projected chairs may be positioned around the stand so that the viewer can see above him the projected image on the hemispherical surface" Farquhar, column 2, lines 44-47. This is clearly not an image that is projected onto an inner surface of an outer cover and is visible from outside the outer cover." Appeal Brief, page 7, lines 2-13.

The Examiner further supports the assertion that all the claimed elements are found in Farquhar in the Examiner's Answer at page 6, section C, wherein the Examiner states that "column 3, lines 13-30 of Farquhar discuss an embodiment with a viewing dome where printed information is placed on the inside surface of the globe so that when projected onto the viewing dome, the words are legible. This appears to be precisely what appellants are arguing, although this particular embodiment was not expressively used for the rejection, it suggests to the examiner how the embodiment of Figure 9 would operate, i.e. the viewing globe 8 becomes the outer globe [20] in Figure 9".

The Examiner's statement in the Examiner's Answer at page 6, section C with reference to Farquhar column 3, lines 13-30 is wholly misplaced. A careful reading of this portion of Farquhar discloses that the "reflecting or viewing dome" receives an image on its surface such that the image can be viewed from within the "space laboratory". This clearly does not result in an image projected onto an inner surface of an outer cover and is visible from outside the outer cover since any observation is required to be made on the interior side of the "reflecting or viewing dome". Farquhar, column 3, lines 13-30.

F. WHEN CONSIDERED AS A WHOLE THE FARQUHAR REFERENCE TEACHES AWAY FROM APPELLANT'S INVENTION AS EMBODIED IN CLAIM 1.

In section VII(F) of the Appeal Brief, Appellant discussed the fact that the Examiner's cited Farquhar reference clearly teaches two modes of display. For example, in column 1, lines 14– 18 Farquhar is clear that the device may display "preselected celestial or terrestrial information printed" on transparent globes or may display projected images on a remote surface. Farquhar simply does not teach or suggest projecting an image to an inner surface of an outer cover the image then being visible from outside the

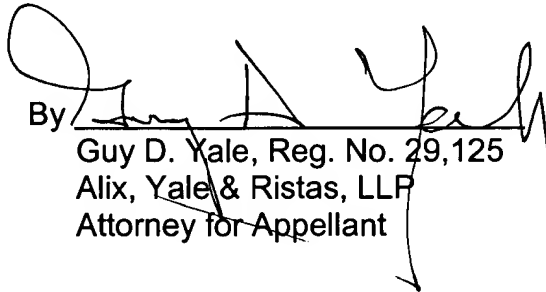
outer cover. The teachings of Farquhar are to provide either globes with printed images or images which are projected onto a remote surface. That section goes on to show that the Farquhar reference is contrary to and teaches away from Appellants' invention of an image that is projected onto an inner surface of an outer cover and is visible from outside the outer cover the outer cover being translucent. The Examiner's Answer fails to address this aspect of Appellant's argument.

G. THE EXAMINER HAS RESORTED TO IMPERMISSIBLE HINDSIGHT TO FIND APPELLANTS' CLAIMS OBVIOUS OVER THE FARQUHAR REFERENCE.

In section VII(G) of the Appeal Brief, Appellant discussed the Examiner's impermissible use of hindsight to assert a *prima facie* case of obviousness. The Examiner's Answer fails to address this argument.

Respectfully submitted,

Wing Leung

By 
Guy D. Yale, Reg. No. 29,125
Alix, Yale & Ristas, LLP
Attorney for Appellant

Date: July 2, 2004
750 Main Street
Hartford, CT 06103
(860) 527-9211
Our Reference: CHU/176/US
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TRANSMITTAL FORM

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First Named Inventor	Wing Leung
Title	Decorative Globes
Group Art Unit	2875
Examiner Name	Mark Tsidulko
Attorney Docket Number	CHU/176/US

ENCLOSURES

- | | |
|---|--|
| <input type="checkbox"/> Response to Office Action | <input type="checkbox"/> Preliminary Amendment |
| <input type="checkbox"/> Information Disclosure Statement | <input checked="" type="checkbox"/> Postcard reflecting enclosures |
| <input checked="" type="checkbox"/> Other: Reply Brief | |

☒ It is hereby petitioned that any required extension of time be granted for filing the amendment. An extension of _____ month(s) having a fee of \$ _____ appears required.

☐ A check in the amount of \$ _____ is attached. Please credit any overpayment to Deposit Account 16-2563 of Alix, Yale & Ristas, LLP.

The Commissioner is hereby requested and authorized to charge Deposit Account 16-2563 of Alix, Yale & Ristas, LLP for any fee, not enclosed herewith, due for any reason in connection with the amendment or this or any other document accompanying the amendment, including (a) any filing fees under 37 CFR 1.16 for the presentation of extra claims and (b) any patent application processing fees under 37 CFR 1.17. *A duplicate copy of this sheet is attached.*

SIGNATURE OF APPLICANT, ATTORNEY OR AGENT

Firm or
Individual name

Guy D. Yale

Reg. No. 29,125

Signature

Date

July 2, 2004

Attorney's Docket No. CHU/176/US

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Reg. No. 29,125

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Date: July 2, 2004